

BILL ANALYSIS

C.S.H.B. 3875
By: Crockett
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2017, over 30 children under the age of 16 were arrested for the offense of prostitution. The arrested children may be considered victims, however, with no real, constructive choice in the situations leading to their arrests. Last session, H.B. 1771 sought to prohibit the prosecution of prostitution offenses committed by minors but it was vetoed due to concerns over traffickers who may have been incentivized to traffic minors, given the new prohibition. C.S.H.B. 3875 prohibits such prosecution of minors and also addresses those trafficking concerns by ensuring that traffickers who compel minors to commit prostitution are still subject to prosecution.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3875 amends the Penal Code to prohibit the prosecution of prostitution conduct involving knowingly offering or agreeing to receive a fee from another to engage in sexual conduct if the offense was committed by a person who was younger than 17 years of age at the time of the commission of the offense. With respect to the offense of compelling a child younger than 18 years of age to commit prostitution, the bill makes the following changes:

- specifies the prostitution conduct on the part of the child that constitutes the offense is prostitution conduct involving knowingly offering or agreeing to receive a fee from another to engage in sexual conduct; and
- changes the name of the offense constituting such conduct to compelling child sexual exploitation.

C.S.H.B. 3875 amends the Family Code to establish that prostitution conduct involving knowingly offering or agreeing to receive a fee from another to engage in sexual conduct is not delinquent conduct or conduct indicating a need for supervision under the juvenile justice code and that a child may not be referred to juvenile court for such conduct.

C.S.H.B. 3875 amends the Civil Practice and Remedies Code, Code of Criminal Procedure, Government Code, Occupations Code, and Property Code to make conforming changes.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3875 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not remove, as the original did, the conduct constituting the offense of compelling prostitution whereby a person knowingly causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time of the offense. Instead, the substitute includes a specification that the prostitution conduct on the part of the child that constitutes the offense of compelling prostitution is prostitution conduct involving knowingly offering or agreeing to receive a fee from another to engage in sexual conduct.

The substitute includes provisions that were not included in the original that do the following:

- prohibit the prosecution of such prostitution conduct that is committed by a person who was younger than 17 years of age at the time of the commission of the offense; and
- establish that such prostitution conduct is not delinquent conduct or conduct indicating a need for supervision under the juvenile justice code and that a child may not be referred to the juvenile court for such conduct.